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SERVICE DATE – SEPTEMBER 9, 2005

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-103 (Sub-No. 19X)

THE KANSAS CITY SOUTHERN RAILWAY COMPANY—ABANDONMENT  
EXEMPTION—IN WEBSTER PARISH, LA

Decided: September 7, 2005

The Kansas City Southern Railway Company (KCSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon approximately 1.12 miles of railroad between milepost 48.48 and milepost 49.60 in Springhill, Webster Parish, LA. Notice of the exemption was served and published in the Federal Register on August 11, 2005 (70 FR 46920-21). The exemption is scheduled to become effective on September 10, 2005.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment in this proceeding on August 16, 2005, in which it recommended a condition requiring KCSR, prior to consummation of the abandonment, to coordinate with the National Geodetic Survey (NGS) for any impacts to geodetic markers. However, because KCSR does not intend to disturb any of the underlying roadbed or perform any activities that would cause sedimentation, SEA subsequently concluded that the proposed abandonment should not affect any geodetic station markers and recommended that the NGS condition not be imposed. Thus, it will not be imposed here.

On August 22, 2005, the City of Springhill, LA (the City), filed a request for issuance of a notice of interim trail use (NITU) for the subject line under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), in order to negotiate with KCSR for acquisition of the right-of-way for use as a trail. The City has submitted a statement of willingness to assume financial responsibility for the management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation for rail service. By letter filed on August 24, 2005, KCSR states that it is willing to negotiate with the City for interim trail use.

Because the City's request complies with the requirements of 49 CFR 1152.29 and KCSR is willing to negotiate for trail use, a NITU will be issued. The parties may negotiate an agreement during the 180-day period prescribed below. If the parties reach a mutually

acceptable final agreement, no further Board action is necessary. If no agreement is reached within 180 days, KCSR may fully abandon the line. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on August 11, 2005, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below, for a period of 180 days commencing on the September 10, 2005 effective date of the exemption (until March 9, 2006).
3. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for the management of, any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.
4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.
5. If interim trail use is implemented and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
6. If an agreement for interim trail use/rail banking is reached by the 180th day after service of this decision and notice, interim trail use may be implemented. If no agreement is reached by that time, KCSR may fully abandon the line. See 49 CFR 1152.29(d)(1).
7. This decision and notice is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary